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Message Text

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ACTION SNM-02

INFO OCT-01 EA-09 IO-13 ISO-00 HEW-06 L-03 H-02 SS-15
AGRE-00 AID-05 DODE-00 MED-03 DEAE-00 CIAE-00
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OES-06 OMB-01 SCA-01 /094 W
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P 250858Z MAR 77
FM AMCONSUL HONG KONG
TO SECSTATE WASHDC PRIORITY 4244
INFO USMISSION GENEVA

UNCLAS HONG KONG 3395

E.O. 11652: N/A
TAGS: SNAR, HK, US
SUBJECT: CONGRESSIONAL HEARINGS ON DECRIMINALIZATION OF MARIHUANA

REF: STATE 57902

SUMMARY: HONG KONG'S DANGEROUS DRUG ORIDNANCE STIPULATES STIFF PENALTIES FOR TRAFFICKING IN CANNABIS, LIGHTER PENALTIES FOR SIMPLE POSSESSION. HK AUTHORITIES DO NOT INTEND TO DECRIMINALIZE OFFENSES; BUT THEY EMPHASIZE THAT POLICING CANNABIS USE AND TRAFFICKING TAKES RELATIVELY LOW PRIORITY IN THEIR DRUG ENFORCEMENT EFFORTS SINCE CANNABIS USE IS RELATIVELY RARE. END SUMMARY.

1. CHAPTER 134 HK DANGEROUS DRUGS ORDINANCE (REVISED 1974) MAKES TRAFFICKING IN CANNABIS, CANNABIS POSSESSION AND CANNABIS CULTIVATION CRIMINAL OFFENSES. PENALTIES UPON CONVICTION ARE AS FOLLOWS:

A) TRAFFICKING OR POSSESSION FOR PURPOSE OF TRAFFICKING: IF CONVICTED IN HK SUPREME COURT (OPTION RARELY EMPLOYED AND RESERVED ONLY FOR OFFENSES INVOLVING LARGE AMOUNTS OF CANNABIS), U.S.$1,000,000 AND LIFE IMPRISONMENT; IF CONVICTED IN LOWER COURT, U.S.$100,000 FINE AND THREE YEARS IMPRISONMENT.

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B) POSSESSION: U.S.$2,000 FINE AND THREE YEARS IMPRISONMENT.

C) CULTIVATION: U.S.$20,000 FINE AND 15 YEARS IMPRISONMENT.

THE GOVERNMENT HAS NO INTENTION OF DECIMINALIZING ANY OF THE ABOVE OFFENSES.

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2. CANNABIS USE IS RARE AMONG THE 98 PERCENT OF HK'S POPULATION WHO ARE CHINESE, AND HK CHINESE SELDOM TRAFFIC IN CANNABIS. HK POLICE STRESS THAT WHILE SOME WESTERNERS RESIDENT IN HK AND FEW WESTERN-INFLUENCED YOUNG CHINESE HERE USE CANNABIS, CANNABIS CONSUMPTION IS A MINOR DRUG PROBLEM IN A CITY WITH AN ESTIMATED 100,000 PERSONS ADDICTED TO OPIATES (50,000 TO HEROIN) AND A CORNUCOPIA OF OTHER DANGEROUS DRUGS EASILY AVAILABLE.

3. TYPICAL SENTENCES FOR CANNABIS TRAFFICKERS FOUND QUILTY IN HK COURTS OVER LAST 18 MONTHS HAVE BEEN MEDIUM TERM (1-3 YEARS) PRISON SENTENCES AND HEAVY FINES (U.S.$1-2,000). FOREIGNERS CONVICTED OF CANNABIS TRAFFICKING ARE ALSO DEPORTED FROM HK AND MAY BE DENIED RIGHT OF RETURN. USERS, MOSTLY FOREIGNERS, ARE TYPICALLY GIVEN FINES RANGING FROM LOW OF U.S.$100 TO HIGH OF U.S.$1,000) AND DEPORTED WITHOUT PRIONS SENTENCES. HONG KONG CITIZENS ARE GIVEN SIMILAR FINES AND IMPRISONED FOR 6 MONTHS TO ONE YEAR.

4. DEFINITIONS: HK DANGEROUS DRUG ORDINANCE LABELS BOTH CANNABIS AND CANNABIS RESIN AS DANGEROUS DRUGS BUT DEFINES BOTH SUBSTANCES ACCORDING TO THE PREVAILING BRITISH LEGAL DEFINITONS. THAT IS, "'CANNABIS' MEANS THE FLOWERING OR FRUITING TOPS OR VIABLE SEEDS OF ANY PLANT OF THE GENUS CANNABIS FROM WHICH THE RESIN HAS NOT BEEN EXTRACTED..." WHILE "'CANNABIS RESIN' MEANS THE SEPARATED RESIN, WHETHER CRUDE OR PURIFIED, OBTAINED FROM ANY PLANT OF THE GENUS
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CANNABIS." THE HK ORDINANCE DEFINES UNLAWFUL "TRAFFICKING" TO INCLUDE IMPORTING, EXPORTING, PROCURING, SUPPLYING OR OTHERWISE DEALING WITH A CONTRABAND SUBSTANCE. POSSESSION OF 5 GRAMS OF CANNABIS OR 2 GRAMS OF CANNABIS RESIN CREATES THE LEGAL PRESUMPTION OF POSSESSION FOR THE PURPOSE OF UNLAWFUL TRAFFICKING. THE ORDINANCE DOES NOT OBLIGE HKG PROSECTUROS TO TAKE ADVANCTAGE OF THIS PRESUMPTION, HOWEVER, AND THEY EVALUATE EACH CASE IN CONTEXT BEFORE DECIDING WHETHER TO PROSECUTE FOR TRAFFICKING OR SIMPLE POSSESSION.
CROSS

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